

1 **TITLE 14 - DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

2 **CHAPTER 13 - STATE RESPONSIBILITY AREA FEES**

3 ~~{Emergency Regulation}~~

4
5 ~~Adopt all new~~ Amend Sections to 14 CCR CHAPTER 13 § 1665 as follows:

6
7 **§ 1665.1 Authority.**

8 This chapter sets out procedures for implementation and
9 collection of "State Responsibility Area Fire Prevention Benefit
10 Fees" (hereafter referred to as "Benefit Fee"), as required by
11 Assembly Bill X1 29, Chapter 8, Statutes 2011, Public Resources
12 Code Section 4210, et seq.

13
14 Note: Authority cited: Public Resources Code Section 4212.
15 Reference: Public Resources Code Sections 4102, 4111, 4114, and
16 4125.

17 **§ 1665.2 Definitions**

18 "Dwelling Unit", for purposes of implementation of Sections
19 4210-4228 of the Public Resources Code, is a unit providing
20 independent living facilities for one or more persons, including
21 provisions for living, sleeping, eating, cooking, and sanitation.
22 Mobile and manufactured homes and condominiums are considered as
23 dwelling units.

24 "Executive Officer" means the Executive Officer to the State
25 Board of Forestry and Fire Protection.

1 "Habitable Structure", for purposes of implementation of
2 Sections 4210-4228 of the Public Resources Code, means a building
3 that contains one or more dwelling units or that can be occupied
4 for residential use. Buildings occupied for residential use include
5 single family homes, multi-dwelling structures, mobile and
6 manufactured homes, and condominiums. Habitable structures do not
7 include recreational vehicles, including houseboats, or incidental
8 buildings such as detached garages, barns, outdoor sanitation
9 facilities, and sheds. Habitable structures also do not include
10 commercial and , industrial structures.

11 "Local Agency" means a city, county or special district.

12 "Manufactured home" has the same meaning as Health and Safety
13 Code Section 18007 (a).

14 "Mobile home" has the same meaning as Health and Safety Code
15 Section 18008 (a).

16 "Property Owner", means that individual, company, corporation,
17 or other entity that is the owner of record of said habitable
18 structure in the county tax assessor rolls or as recorded in the
19 records of the Department of Housing and Community Development on
20 July 1 of the state fiscal year for which the fee is due.

21 "State Responsibility Area" means those areas defined in
22 Section 4102 and delineated pursuant to Sections 4125-4128 of the
23 Public Resources Code. These lands are shown on digital maps
24 maintained by the California Department of Forestry and Fire
25 Protection at its Sacramento Headquarters and may be viewed there

or in low resolution at the California Department of Forestry and Fire Protection website: http://www.bof.fire.ca.gov/sra_viewer/.

"Benefit Fee" means the fire prevention benefit fee imposed pursuant to Sections 4210-4228 of the Public Resources Code.

"Fire Prevention Fund" means the State Responsibility Area Fire Prevention Fund created by Public Resources Code Section 4214 for deposit of all annual Benefit Fees collected and from which expenditures are authorized pursuant to the annual Budget Act, including grants that may be awarded pursuant to 14 CCR Section 1665.8.

Note: Authority cited: Public Resources Code Sections 4211, 4212, and 4214. Reference: Public Resources Code Sections 4102, and 4211, **Government Code 56054**, Health and Safety Code Sections 18007(a), and 18008(a).

§ 1665.3. Determination of Eligible Habitable Structure

Determinations of eligible habitable structures and the associated fees within State Responsibility Areas shall be completed statewide by the Department or for the Department by its "Designated Fee Administrator" pursuant to Public Resources Code Section 4210, et seq. and 14 CCR Sections 1665.1-1665.8.

The Department, independently or through the Designated Fee Administrator, may adjust the number of eligible habitable structures and other factors assigned to a property owner, and associated fee determinations, at any time based on additional information obtained in the administration of the fee. If the

1 adjustment of the number of eligible structures also involves minor
2 adjustment of boundaries of SRA to better fit parcels, the
3 Department may do so with the approval of the Executive Officer.
4 The Executive Officer shall provide a summary report of such
5 changes at the Board's January meeting.

6
7 Note: Authority cited: Public Resources Code Sections 4212, 4213,
8 and 4214. Reference: Public Resources Code Sections 4111, 4212,
9 4213, and 4214.

10 **§ 1665.4. Imposition of the Benefit Fee**

11 The Benefit Fee will be imposed on all property owners with one
12 or more habitable structures within State Responsibility Areas as
13 defined in Public Resources Code Section 4102 and pursuant to
14 Public Resources Code Sections 4125-4128.

15 Note: Authority cited: Public Resources Code Section 4212.
16 Reference: Public Resources Code Sections 4102, 4111, 4210, and
17 4211.

18 **§ 1665.5. Request for Review and Refunds**

19 (a) A property owner from whom the Benefit Fee is determined
20 to be due under Public Resources Code Section 4213 et seq. may
21 petition the Department for a redetermination regarding the fee and
22 amount determined within 30 days after service upon him or her of a
23 notice of the determination.

24 If a petition for redetermination is filed after the
25 expiration of the 30 days time period reference in (a) the untimely
petition may be treated as an administrative protest when

1 determined by the Department that the facts presented support the
2 Benefit Fee originally determined to be excessive. If a premature
3 or untimely petition is treated as an administrative protest, the
4 administrative protest will be reviewed in the same manner as a
5 petition for redetermination.

6 (1) The Department may delegate the receipt and review of
7 petitions to a Designated Fee Administrator of its choice. The
8 Designated Fee Administrator must be qualified by experience in
9 preparing and administering one of the following for a fire
10 district: benefit assessments, benefit fees, or special taxes.

11 (2) The petition may be filled out and submitted by a
12 property owner subject to the Benefit Fee or by the Department or
13 Designated Fee Administrator in consultation with and on behalf of
14 the property owner.

15 (3) The petition shall include information that states
16 the specific basis or grounds upon which the petition is founded
17 and includes supporting documentation. The petition must be based
18 on whether the fee as specified in Public Resources Code Section
19 4213 et seq. applies to the specific property for which the
20 petition was filed. Examples of specific issues that may be
21 considered by the Department or Designated Fee Administrator
22 include, but are not limited to, the location of the structure in
23 an SRA, determination of the number of applicable habitable
24 structures, and the related fee amount calculated.

1 ~~(4) Petitions received by the Department or Designated~~
2 ~~Fee Administrator more than 30 days from service upon him or her of~~
3 ~~a notice of the determination shall not be considered. If a~~
4 ~~petition will not be considered, the Department or Designated Fee~~
5 ~~Administrator shall notify the petitioner.~~

6 (5) After receipt of a petition, the Department or the
7 Designated Fee Administrator may request additional information
8 from the property owner if, in their opinion, the petition does not
9 give adequate information to permit full review of the fee and the
10 petition.

11 (6) The petition may be amended to state additional
12 grounds or provide additional documentation at any time prior to
13 the date that the Department or the Designated Fee Administrator
14 issues its decision with regard to the petition for
15 redetermination.

16 (7) The petition shall be sent by the petitioner to the
17 address indicated by the Department; this may be the address of the
18 Department's Designated Fee Administrator.

19 (8) The Department or its Designated Fee Administrator
20 shall complete its review of the petition for redetermination
21 within 60 days.

22 (9) Based on its review of the petition for
23 redetermination, the Department or its Designated Fee Administrator
24 may decide if the fee is valid and due in the amount of the
25 original fee, may modify the fee, or may eliminate the fee based

1 on a determination that it should not apply to the property owner
2 who filed the petition.

3 (10) The decision of the Department or its Designated Fee
4 Administrator shall be in writing and shall indicate the reasons
5 for the decision on the petition.

6 (11) If the decision modifies or eliminates the fee, the
7 Department or its Designated Fee Administrator shall make
8 appropriate modifications to the next and subsequent lists of
9 property owners and fee amounts submitted to the State Board of
10 Equalization.

11 (12) The decision on the petition for redetermination by the
12 Department or its Designated Fee Administrator shall be served on the
13 petitioner as described in Section 4226 of the Public Resources Code.
14 On the same date, the Department or its Designated Fee Administrator
15 shall notify the Board of Forestry and Fire Protection and the State
16 Board of Equalization. The Department will maintain copies of
17 decisions on all petitions for redetermination petitions for use of
18 the Board of Forestry and Fire Protection and State Board of
19 Equalization.

20 (13) Unless the petitioner requests a review of the
21 decision by the Executive Officer under subsection (a), the decision
22 of the Department or its Designated Fee Administrator upon a
23 petition for redetermination of the Benefit Fee shall become final
24 30 days after service upon the petitioner of notice of the
25 determination. If a petitioner requests a review of the decision by

1 the Executive Officer, then the decision after the amended decision
2 has been served on the petitioner as delineated in subsection
3 a(5)below. If the Executive Officer has not received a request for
4 review postmarked 30 days after the date of service on the
5 petitioner, the Department's initial decision on the petition
6 becomes final and no further requests for review will be allowed.

7 (a) Review of Petition Decision

8 (1) Within 30 days of being served with a decision under
9 (a)(11) above, a petitioner may request that the Executive Officer
10 review the decision.

11 (2)The Executive Officer may accept only those petitions
12 for review that meet both of the following criteria:

13 (i) Requests are based upon a substantive issue that
14 is within the ability of the Executive Officer to make a
15 determination. Examples of such issues include, but are not limited
16 to dispute with: the number of habitable structures; the inclusion
17 within current SRA boundaries; failure to receive the credit for
18 being within the boundaries of a local agency that provides fire
19 protection services; and ownership of the property before July 1 of
20 the fiscal year for which the Benefit Fee is due.

21 (ii) The petitioner requesting review by the
22 Executive Officer must have provided new documentation beyond that
23 in the original petition for which the decision was made by the
24 Department. This information must support that the Benefit Fee
25 originally determined was excessive.

1 2) The petitioner shall request review by the Executive
2 Officer of the petition in writing. The request must be in a form
3 that is clearly distinct from the original petition filed by the
4 petitioner. The request shall contain information adequate to
5 identify the parcel(s) for which the review is being requested, the
6 reason that the review is being requested, and additional
7 documentation that supports that the position that Benefit Fee
8 originally determined was excessive. Copies of the original
9 petition, associated documentation, and the Letter of Decision from
10 the Department shall also be included.

11 3) The request shall be submitted to the Executive
12 Officer, who with the assistance of the Department shall transmit
13 them to the Designated Fee Administrator.

14 4) The Executive Officer shall have 45 days from the date
15 postmarked on the written request for review of a petition to
16 accept a petition and to complete a review and make a determination
17 on the request.

18 (i) In this review, the Executive Officer may
19 enlist the help of the Department and DFA, but any decision on a
20 review is the sole authority of the Executive Officer.

21 (ii) Upon request of the Executive Officer, the
22 Department, with the assistance of the Designated Fee Administrator
23 shall provide any notes and other information to support the
24 position taken in the original Letter of Decision.

1 (iii)The Executive Officer may determine that there
2 is not a substantive issue or sufficient documentation to review a
3 petition. If this is the case, the Executive Officer with the
4 assistance of the Department and DFA, shall notify the petitioner
5 of this fact in writing. At this point, the original decision by
6 the Department becomes final. The Department, with the assistance
7 of the DFA, shall forward this information to the State Board of
8 Equalization.

9 (iv)If the Executive Officer determines that the
10 original fee was excessive, the Executive Officer shall determine
11 the amount to be adjusted and instruct the Department to have the
12 DFA change the fee amount and notify the State Board of
13 Equalization of the amount

14 (v)If the Executive Officer determines that the fee
15 was not excessive, then the Executive Officer shall make no change
16 in the fee amount, but shall notify the Department of this fact.
17 In turn, the Department shall notify the DFA, and with the
18 assistance of the DFA, notify the State Board of Equalization.

19 5) After the Executive Officer notifies the Department of
20 the decision on the review of a petition, the petitioner shall be
21 served as described in Section 4226 of the Public Resources Code.

22 (i)The material served on the petitioner shall make
23 it clear that the decision being served comes in response to the
24 request of the petitioner for a review of the original decision.
25 As such, the decision based on the review by the Executive Officer,

1 or amended decision, takes the place of the original decision of
2 the Department.

3 (ii) Service can be initiated by the Department or
4 the Designated Fee Administrator.

5 (iii) On the same date, the Department or its
6 Designated Fee Administrator shall notify the Board of Forestry and
7 Fire Protection and the State Board of Equalization.

8 (iv) The Executive Officer, with assistance from the
9 Department and Designated Fee Administrator, shall maintain copies
10 of all review decisions by the Executive Officer for use of the
11 Board of Forestry and Fire Protection and State Board of
12 Equalization.

13 (v) The Executive Officer shall report at least
14 quarterly to the Board on the functioning and review of their
15 review of petitions

16
17 (14) If the Department or its Designated Fee
18 Administrator determines that a property owner is entitled to a
19 refund of all or part of the Benefit Fee paid pursuant to this
20 chapter, the property owner, or the Department or Designated Fee
21 Administrator on behalf of the property owner, shall make a claim
22 to the State Board of Equalization pursuant to Chapter 5
23 (commencing with Section 55221) of Part 30 of Division 2 of the
24 Revenue and Taxation Code.
25

1 Note: Authority cited: Public Resources Code Sections 4212, 4213,
2 4214, and 4220. Reference: Public Resources Code Sections 4221,
3 4222, 4222.5, 4223, 4224, 4225, 4226, and 4227.

4 **§ 1665.6. Fee Structure**

5 (a) The Board has been directed by the legislature to impose a
6 fee that will provide funding necessary for fire prevention
7 activities.

8 (b) The Benefit Fee shall be one hundred-fifty dollars
9 (\$150.00) per habitable structure.

10 (c) Fees shall be deposited in the Fire Prevention Fund.

11 (d) On July 1, 2013 and at its June meeting prior to each
12 subsequent July 1, the Board shall adjust the rate to reflect the
13 percentage of change in the average annual value of the Implicit
14 Price Deflator for State and Local Government Purchases of Goods
15 and Services for the United States, as calculated by the United
16 States Department of Commerce for the 12-month period in the third
17 quarter of the prior calendar year, as reported by the Department
18 of Finance.

19 Note: Authority cited: Public Resources Code Sections 4212, 4213,
20 and 4214. Reference: Public Resources Code Sections 4210, 4211,
21 4212, and 4214.

22 **§ 1665.7. Fee ~~exemptions~~ credit/reductions**

23 Property owners of habitable structures within a State
24 Responsibility Area and also within the boundaries of a local
25 agency that provides fire protection services shall receive a

1 credit/reduction of thirty-five dollars (\$35.00) per habitable
2 structure.

3
4 Note: Authority cited: Public Resources Code Section 4212.
5 Reference: Public Resources Code Sections 4117, 4125, 4127, and
6 4210.

7 **§ 1665.8. Grant Program**

8 (a) The Board shall administer a granting program funded from
9 the Benefit Fees collected. Grants shall be awarded to
10 organizations within counties in direct proportion to the benefit
11 fee paid by individual property owners in that county.

12 (b) Grants awarded from the Fire Prevention Fund shall be
13 awarded to local agencies, Fire Protection Districts, Fire Safe
14 Councils, the California Conservation Corps, and other
15 organizations accepted by the Board. Grants will only be awarded in
16 those counties that are in compliance with the Board's fire safe
17 regulations, 14 CCR Section 1270, et seq., as required pursuant to
18 Public Resources Code Section 4290.to support the following
19 priorities:

20 ~~(1) Development or updating of a Community Wildfire~~
21 ~~Protection Plan (CWPP), local hazard mitigation plan, or~~
22 ~~community-based wildfire hazard or risk analysis.~~

23 ~~(2) Development of General Plan elements, including the~~
24 ~~Safety Element, and "Fire Safe Regulations" to be certified by~~
25 ~~the Board pursuant to Public Resources Code Section 4290.~~

~~(3) Community fuel reduction projects in State
Responsibility Areas.~~

~~(4) Other community fire safety and fire prevention
projects, including fire prevention education, designed to
reduce the risk of wildfire in State Responsibility Areas.~~

Note: Authority cited: Public Resources Code Sections 4212, 4214.
Reference: Public Resources Code Sections 4102, 4111, 4112, 4113,
4114, 4740, and 4741.